IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CENTRAL EXCISE & CUSTOMS GOLD CONTROL AP No 13 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ATUL LIMITED

Versus

COMMISSIONER OF CENTRAL EXCISE

Appearance:

PARTY-IN-PERSON for Petitioner

MR ASIM J PANDYA for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE C.K.BUCH

Date of decision: 01/03/2000

ORAL JUDGEMENT (PER : J.N.BHATT, J)

Rule, service of which is waived by learned Central Government Standing Counsel Mr. Ashim J.Pandya.

After having heard and considering the facts and circumstances, we are of the opinion that the following two questions of law raised in the application are required to be directed to be referred to this Court :-

"1. Whether the Hon'ble CEGAT is correct in holding that time limit of six months for clearance of returned goods can be prescribed by the Collector by the Executive Instructions while Rule 173 H of the Central Excise Rules, 1944 does not contain any such condition resulting in curtailment of benefit granted by the said rule.

2. Whether non-compliance of any such condition not imposed by the Rule 173 H of the Central Excise Rules, 1944 amounts to breach of procedural condition so as to deny the benefit granted by the Rule 173 H of the Rules. "

Therefore, the Customs, Excise & Gold (Control) Appellate Tribunal, West Regional Bench at Mumbai, is directed to draw up the statement of facts and refer the aforesaid questions to this Court on or before completion of 180 days from the date of receipt of writ of this Court.

Accordingly, this CECG Application under Sec.35H of the Income-tax Act, 1961, shall stand disposed of. Rule is made absolute. No order as to costs.

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